

GABRIEL M. BRISTOL, an individual,	)	
Plaintiff,	)	Case No.: 2:16-cv-00705-JCM-CWH
vs.	)	
	)	
ELIZABETH JOAN HUGHES, an	)	
individual,	)	
	)	
Defendant.	)	
<hr/>	)	<b>ANSWER AND</b>
ELIZABETH JOAN HUGHES, an	)	<b>COUNTERCLAIMS</b>
individual	)	
	)	
Counter-Claimant,	)	
vs.	)	
	)	
GABRIEL M. BRISTOL, an individual,	)	
	)	
Counter-Defendant.	)	
	)	

Defendant ELIZABETH HUGHES (hereafter referred to as the “Defendant,” “Counter-Claimant” or “Hughes,” depending on the context), by and through her counsel of record, Charles C. Rainey, Esq. of the law firm of HAMRICK & EVANS, LLP, hereby answers the Plaintiff’s Complaint on file herein and further submits her counter-claims against Plaintiff/Counter-Defendant GABRIEL M. BRISTOL (hereafter referred to as the “Plaintiff,” “Counter-Defendant” or “Bristol” depending

1 on the context), pursuant to and in accordance with Rule 12 of the Federal Rules of  
2 Civil Procedure.

3 Dated: Las Vegas, Nevada  
4 February 8, 2017

*Respectfully submitted,*  
**HAMRICK & EVANS, LLP**

5 /s/ Charles C. Rainey  
6 CHARLES C. RAINEY, ESQ./MBA/LLM  
7 Nevada Bar No. 10723  
8 crainey@hamricklaw.com  
9 HAMRICK & EVANS LLP  
10 7670 W. Lake Mead Blvd., Ste. 140  
11 Las Vegas, Nevada 89128  
12 +1.702.425.5100 (ph)  
13 +1.818.763.2308 (fax)  
14 *Attorney for Defendant*  
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I.

ANSWER

With respect to each and every allegation averred in the Plaintiff's Complaint, the Defendant answers as follows:

Answering Paragraph 1 of the Complaint, Defendant denies the allegations contained therein.

Answering Paragraph 2 of the Complaint, Defendant admits that she is a citizen of the State of Nevada but cannot admit the remaining allegations contained therein, as they are ambiguously worded (failing to specify whether the list of trust positions is conjunctive or disjunctive), and therefore denies such remaining allegations.

Answering Paragraph 3 of the Complaint, Defendant denies the allegations contained therein.

Answering Paragraph 4 of the Complaint, Defendant admits the allegations contained therein.

Answering Paragraph 5 of the Complaint, Defendant admits that she is subject to the general and specific personal jurisdiction of the present court, but denies all remaining allegations contained therein.

Answering Paragraph 6 of the Complaint, Defendant admits that she is subject to the general and specific personal jurisdiction of the present court.

Answering Paragraph 7 of the Complaint, Defendant admits that she resides in Clark County, Nevada, but denies all remaining allegations contained therein.

Answering Paragraph 8 of the Complaint, Defendant admits that Plaintiff received from the Defendant the sum of no less than One Hundred Sixty Six Thousand Eight Hundred Eighty Six dollars (USD\$166,886.00) but denies that this sum could be characterized as a "loan" under the circumstances.

Answering Paragraph 9 of the Complaint, Defendant admits that

1 Defendant once perceived the Plaintiff as a personal friend, but denies all  
2 remaining allegations contained therein.

3 Answering Paragraph 10 of the Complaint, Defendant denies the  
4 allegations contained therein.

5 Answering Paragraph 11 of the Complaint, Defendant lacks sufficient  
6 information to form an opinion and/or belief as to Plaintiff's level of appreciation  
7 for any sums of money Plaintiff received from the Defendant and thus Defendant  
8 denies those allegations; furthermore, Defendant denies that she received any  
9 benefit from Plaintiff's receipt or use of the funds.

10 Answering Paragraph 12 of the Complaint, Defendant denies the  
11 allegations contained therein.

12 Answering Paragraph 13 of the Complaint, Defendant notes that she  
13 cannot admit the allegations contained therein as they are ambiguously worded  
14 (failing to specify whether the list of trust positions is conjunctive or disjunctive),  
15 and therefore denies all allegations contained therein.

16 Answering Paragraph 14 of the Complaint, Defendant admits that the  
17 Scorpio Trust was formed in or about January, 2015, but denies that the monies  
18 received by the Plaintiff could reasonably be characterized as a "loan."

19 Answering Paragraph 15 of the Complaint, Defendant admits that  
20 Defendant's attorney accused Plaintiff of misappropriating funds of the Scorpio  
21 Trust while Plaintiff served as the Trustee thereof, and further admits that  
22 Defendant had the Plaintiff removed from his position as Trustee of the Scorpio  
23 Trust, but denies all other allegations contained therein.

24 Answering Paragraph 16 of the Complaint, Defendant denies Plaintiff's  
25 characterization of their prior dealings and further denies that the Plaintiff's  
26 receipt of funds from the Defendant could reasonably be characterized as a "loan,"  
27 asserting that the funds were wrongfully misappropriated by the Plaintiff through  
28 deceit and misrepresentation.

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2        Answering Paragraph 17 of the Complaint, Defendant denies the  
3 characterization of her statements in the subject email as a concession or  
4 admission of any specific terms of a previously negotiated loan, and furthermore is  
5 unable to authenticate the subject email at this time, and therefore denies all  
6 allegations contained therein.

7        Answering Paragraph 18 of the Complaint, Defendant admits that Plaintiff  
8 owes the Defendant at least One Hundred Fifty Five Thousand Two Hundred  
9 Eighty Six dollars (USD\$155,286), but denies all other allegations contained  
10 therein.

11        Answering Paragraph 19 of the Complaint, Defendant denies the  
12 allegations contained therein as a gross mischaracterization of the events that  
13 transpired between the parties.

14        Answering Paragraph 20 of the Complaint, Defendant admits that she has  
15 made multiple attempts to negotiate a settlement of this matter and distill the  
16 terms of that settlement into one or more written documents, but denies all other  
17 allegations contained therein.

18        Answering Paragraph 21 of the Complaint, Defendant admits that she has  
19 made multiple attempts to negotiate a settlement of this matter and distill the  
20 terms of that settlement into one or more written documents, but denies all other  
21 allegations contained therein.

22        Answering Paragraph 22 of the Complaint, Defendant denies all allegations  
23 contained therein.

24        Answering Paragraph 23 of the Complaint, Defendant denies all allegations  
25 contained therein.

26        Answering Paragraph 24 of the Complaint, Defendant denies all allegations  
27 contained therein.

28        Answering Paragraph 25 of the Complaint, Defendant admits that she

1 previously asked Plaintiff to remit payments to third party creditors as a means of  
2 satisfying the balance owed to the Defendant, but denies all other allegations  
3 contained therein.

4 Answering Paragraph 26 of the Complaint, Defendant admits that she  
5 previously gave Plaintiff instructions on the means and method of remitting  
6 payments on the balance owed to the Defendant, but denies all other allegations  
7 contained therein.

8 Answering Paragraph 27 of the Complaint, Defendant denies all allegations  
9 contained therein.

10 Answering Paragraph 28 of the Complaint, Defendant denies all allegations  
11 contained therein.

12 Answering Paragraph 29 of the Complaint, Defendant admits that Plaintiff  
13 obtained the subject monies from the Defendant through deceit and  
14 misrepresentation and that Defendant's efforts to obtain repayment of the monies  
15 have met with substantial resistance on the part of the Plaintiff, but denies all  
16 other allegations contained therein.

17 Answering Paragraph 30 of the Complaint, Defendant admits that the  
18 entire balance of no less than One Hundred Sixty One Thousand Eight Hundred  
19 Eighty Six dollars (USD\$161,886.00) is immediately due and owing and that  
20 Defendant's attorney has communicated this fact to the Plaintiff, but denies all  
21 other allegations contained therein.

22 Answering Paragraph 31 of the Complaint, Defendant denies all allegations  
23 contained therein.

24 Answering Paragraph 32 of the Complaint, Defendant denies all allegations  
25 contained therein.

26 Answering Paragraph 33 of the Complaint, Defendant denies all allegations  
27 contained therein.

28 Answering Paragraph 34 of the Complaint, Defendant denies all allegations

1 contained therein.

2 Answering Paragraph 35 of the Complaint, Defendant denies all allegations  
3 contained therein.

4 Answering Paragraph 36 of the Complaint, Defendant denies all allegations  
5 contained therein.

6 Answering Paragraph 38 of the Complaint, Defendant denies that there  
7 was ever any meeting of the minds and asserts that any bargain struck by the  
8 parties was founded upon misrepresentation of the Plaintiff, and further denies  
9 all other allegations contained therein.

10 Answering Paragraph 39 of the Complaint, Defendant denies all allegations  
11 contained therein.

12 Answering Paragraph 40 of the Complaint, Defendant denies all allegations  
13 contained therein.

14 Answering Paragraph 41 of the Complaint, Defendant denies all allegations  
15 contained therein.

16 Answering Paragraph 42 of the Complaint, Defendant denies all allegations  
17 contained therein.

18 Answering Paragraph 43 of the Complaint, Defendant denies all allegations  
19 contained therein.

20 Answering Paragraph 44 of the Complaint, Defendant denies all allegations  
21 contained therein.

22 Answering Paragraph 45 of the Complaint, Defendant denies all allegations  
23 contained therein.

24 Answering Paragraph 46 of the Complaint, Defendant denies all allegations  
25 contained therein.

26 Answering Paragraph 47 of the Complaint, Defendant denies all allegations  
27 contained therein.

28 Answering Paragraph 48 of the Complaint, Defendant denies all allegations

1 contained therein.

2         Answering Paragraph 50 of the Complaint, Defendant notes that the  
3 assertion calls for a legal conclusion that she is unable to admit or deny in this  
4 context.

5         Answering Paragraph 51 of the Complaint, Defendant denies all allegations  
6 contained therein.

7         Answering Paragraph 52 of the Complaint, Defendant denies all allegations  
8 contained therein.

9         Answering Paragraph 53 of the Complaint, Defendant admits that she has  
10 made multiple attempts to negotiate a settlement of this matter and distill the  
11 terms of that settlement into one or more written documents, but denies all other  
12 allegations contained therein.

13         Answering Paragraph 55 of the Complaint, Defendant notes that the  
14 assertion calls for a legal conclusion that she is unable to admit or deny in this  
15 context.

16         Answering Paragraph 56 of the Complaint, Defendant admits that there is  
17 an actual and present controversy between Plaintiff and Defend, but denies all  
18 other allegations contained therein.

19         Answering Paragraph 57 of the Complaint, Defendant denies all allegations  
20 contained therein.

21         Answering Paragraph 58 of the Complaint, Defendant denies all allegations  
22 contained therein.

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II.

## AFFIRMATIVE DEFENSES

In answering the allegations contained in the Plaintiff's Complaint on file herein, Defendant asserts the following affirmative defenses:

**FIRST AFFIRMATIVE DEFENSE**

## (STATUTE OF FRAUDS)

Defendant is informed and believes, and thereon alleges that Plaintiff's claims are barred, in whole or in part, by the Statute of Frauds.

**SECOND AFFIRMATIVE DEFENSE**

## (FRAUDULENT INDUCEMENT)

Any contract that the parties might have formed or intended to form is void, as the Plaintiff induced the Defendant to enter into such agreement through intentional misrepresentations, including, without limitation, the Plaintiff's express representation that the funds provided by the Defendant were to be used for the purchase of a property in San Diego and would be further secured by a perfected security interest in such property, which, when considered with any other indebtedness against said property, would not exceed the total equity in the property.

**THIRD AFFIRMATIVE DEFENSE**

## (UNJUST ENRICHMENT)

Any recovery herein by Plaintiff would constitute unjust enrichment.

**FOURTH AFFIRMATIVE DEFENSE**

## (MEETING OF THE MINDS)

Defendant is informed and believes, and thereon alleges that Plaintiff's claims are barred, in whole or in part, by the fact that there was never any meeting of the minds sufficient to cause the formation of an enforceable contract.

**FIFTH AFFIRMATIVE DEFENSE**

## (ESTOPPEL)

1 Defendant is informed and believes, and thereon alleges that Plaintiff's  
2 claims are barred, in whole or in part, under the doctrine of estoppel due to  
3 Plaintiff's own conduct and actions.

4 **SIXTH AFFIRMATIVE DEFENSE**

5 (MISTAKE)

6 Defendant is informed and believes, and thereon alleges that Plaintiff's  
7 claims are barred, in whole or in part, under the doctrines of unilateral and/or  
8 mutual mistake.

9 **SEVENTH AFFIRMATIVE DEFENSE**

10 (INDEFINITE TERMS)

11 Defendant is informed and believes, and thereon alleges that Plaintiff's  
12 claims are barred, in whole or in part, by the fact that the essential terms of any  
13 attempted agreement were indefinite.

14 **EIGHTH AFFIRMATIVE DEFENSE**

15 (FAILURE OF CONSIDERATION)

16 Defendant is informed and believes, and thereon alleges that Plaintiff's  
17 claims are barred, in whole or in part, by a lack of consideration.

18 **NINTH AFFIRMATIVE DEFENSE**

19 (UNCLEAN HANDS)

20 Plaintiff's inequitable conduct constitutes unclean hands and therefore bars  
21 the Plaintiff from relief.

22 **TENTH AFFIRMATIVE DEFENSE**

23 (WAIVER)

24 By his own conduct and actions, Plaintiff has waived his right(s), if any, to  
25 bring this action.

26 **ELEVENTH AFFIRMATIVE DEFENSE**

27 (ACCORD AND SATISFACTION)

28 Defendant is informed and believes, and thereon alleges that Plaintiff's

1 claims are barred, in whole or in part, under the doctrine of accord and  
2 satisfaction.

3 **TWELFTH AFFIRMATIVE DEFENSE**

4 (NO INJURY OR DAMAGES)

5 Defendant is informed and believes, and thereon alleges that Plaintiff has  
6 suffered no injury or damages, and therefore is not entitled to any relief.

7 **THIRTEENTH AFFIRMATIVE DEFENSE**

8 (FAILURE TO MITIGATE DAMAGES)

9 Defendant is informed and believes, and thereon alleges that Plaintiff failed  
10 to take reasonable steps to mitigate his damages, if any he sustained, and  
11 therefore he is barred from recovering damages.

12 **FOURTEENTH AFFIRMATIVE DEFENSE**

13 (REASONABLENESS AND GOOD FAITH)

14 Plaintiffs claims fail because Defendant acted reasonably and in good faith.

15 **FIFTEENTH AFFIRMATIVE DEFENSE**

16 (NO BASIS FOR ATTORNEY'S FEES)

17 Plaintiffs Second Amended Complaint fails to allege facts, or a cause of  
18 action, sufficient to support a claim for attorney's fees.

19 **SIXTEENTH AFFIRMATIVE DEFENSE**

20 (IN PARI DELICTO)

21 Plaintiffs claims, in whole or in part, are barred because Plaintiff engaged  
22 in acts and courses of conduct that rendered Plaintiff in pari delicto.

23 **SEVENTEENTH AFFIRMATIVE DEFENSE**

24 (NOVATION)

25 Defendant is informed and believes, and thereon alleges that Plaintiff's  
26 claims are barred , in whole or in part, are barred under the doctrine of novation.

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1 **EIGHTEENTH AFFIRMATIVE DEFENSE**

2 (ALL APPLICABLE DEFENSES NOT MENTIONED HEREIN)

3 Defendant hereby gives notice that she intends to rely upon any other  
4 defenses that may become available or appear during the discovery proceedings in  
5 this case and hereby reserves the right to amend her Answer and Counterclaims  
6 to assert any such further defenses or claims based on applicable law.

7 **III.**

8 **COUNTERCLAIMS**

9 FURTHER, and by way of counter-claim against Plaintiff/Counter-  
10 Defendant GABRIEL M. BRISTOL ("Counter-Defendant" or "Bristol"), the  
11 Defendant/Counter-Claimant ELIZABETH HUGHES ("Counter-Claimant" or  
12 "Hughes") alleges as follows:

13 **A. PARTIES**

- 14 1. Counter-Claimant is a resident of Clark County, Nevada.
- 15 2. Counter-Defendant owns property in both California and Nevada  
16 and, by his own admission, declares both states equally has domicile.
- 17 3. By filing his Complaint in the above-entitled action in this Court,  
18 Counter-Defendant has alleged and consented that jurisdiction and venue are  
19 proper in this Court.

20 **B. COMMON ALLEGATIONS**

- 21 1. Hughes met Bristol in or about October of 2006.
- 22 2. Initially, Hughes perceived Bristol as a good friend in whom she  
23 could confide and trust.
- 24 3. However, over time, Bristol would betray that trust as he  
25 manipulated and exploited Hughes for his own financial gain.

26 **THE PURPORTED "LOANS"**

- 27 4. In the late spring of 2014, Bristol approached Hughes, asking to  
28 borrow money for the purchase of a home in San Diego County (the "San Diego

1 Property”).

2 5. Contrary to the assertions in Bristol’s Complaint, Bristol approached  
3 Hughes, soliciting her financial assistance.

4 6. Hughes did not instigate the transaction, nor was she in a financial  
5 position that would make such a transaction advisable.

6 7. In fact, Hughes had just recently suffered a host of personal and  
7 financial setbacks, which placed her in a particularly vulnerable state.

8 8. Just a few months prior, in January of 2014, Hughes’ long-time  
9 boyfriend, Clint Ober, had suffered a heart attack.

10 9. While in the hospital from the heart attack, Ober revealed to Hughes  
11 that he had been having an affair with another woman and that he was no longer  
12 in love with Hughes.

13 10. At that point, Ober ended his relationship with Hughes.

14 11. Shortly thereafter, Ober, who was also the President of the company  
15 where Hughes was employed, slashed Hughes’ salary in half.

16 12. This combination of unfortunate events left Hughes not only  
17 emotionally devastated, but also financially unstable.

18 13. Hughes was in a particularly fragile mental state, which made her  
19 relatively easy prey for Bristol.

20 14. Meanwhile, Hughes was informed and believed that Bristol was a  
21 highly paid executive.

22 15. Bristol represented to Hughes that Bristol earned an annual salary  
23 in excess of Three Hundred Thousand dollars (USD\$300,000.00).

24 16. Bristol asserted that he was looking to purchase a home in San  
25 Diego, but, despite his high salary, had bad credit.

26 17. Bristol asserted that, to improve his credit, he needed to “borrow”  
27 some money from Hughes and hold those funds in his checking account for several  
28 months.

1           18. Bristol explained that the borrowed funds needed to “season” in his  
2 account for several months so that banks would take the funds into account in  
3 evaluating his creditworthiness for a mortgage.

4           19. Bristol promised that once he closed on the San Diego Property, the  
5 funds would either be returned to Hughes or used as the down payment on the  
6 San Diego Property.

7           20. Bristol explained that, if for some reason he was unable to purchase  
8 the San Diego Property, he would simply return the funds to Hughes.

9           21. Meanwhile, Bristol insisted that if the funds were used at closing as  
10 his down payment, he would grant Hughes a second position mortgage in the San  
11 Diego Property, assuring Hughes that there would be plenty of equity in the San  
12 Diego Property to guaranty that her investment was secure.

13           22. Furthermore, Bristol promised that he would pay Hughes a market  
14 reasonable annual interest rate on the balance owed to Hughes.

15           23. Bristol also insisted that, as a good faith gesture, he would make  
16 monthly payments to Hughes until the full balance of the funds were returned to  
17 her.

18           24. Since Hughes was in such precarious financial condition at the time,  
19 Bristol further offered to make payments from his account for any emergency  
20 expenses that Hughes might suffer in the interim while Bristol was holding her  
21 funds.

22           25. Hughes understood that, if she suffered any serious financial  
23 hardship, she would be able to turn to Bristol for support, and that any funds he  
24 would pay for Hughes’ benefit would be deducted from the principal amount he  
25 owed her.

26           26. Based on the foregoing representations, on June 25, 2014, Hughes  
27 handed over to Bristol the initial sum of Forty Two Thousand Four Hundred  
28 dollars (USD\$42,400.00) (hereafter referred to as “INSTALLMENT 1”).

1           27. Bristol also asked that he be added as a signor on Hughes' own  
2 checking account.

3           28. Bristol claimed that he had spoken with a mortgage broker who  
4 informed him that if Bristol were listed as a signatory on an account with Hughes,  
5 then Hughes' good credit would help to prop up Bristol's bad credit.

6           29. Hughes reluctantly added Bristol as a signatory on her own checking  
7 account.

8           30. Also on June 25, 2014, another check was drafted on Hughes' account  
9 for Bristol's benefit, in the amount of Two Thousand Five Hundred dollars  
10 (USD\$2,500.00) ("INSTALLMENT 2").

11           31. As of the date of the drafting of these Counter-Claims, it is unclear  
12 whether Hughes or Bristol wrote the check for INSTALLMENT 2.

13           32. In the following months, Bristol would write checks out from Hughes'  
14 account, sometimes with her prior permission and sometimes without her prior  
15 permission.

16           33. In July, 2014, Bristol failed to make the good faith payment as  
17 promised.

18           34. Instead, Bristol asked to "borrow" even more money from Hughes.

19           35. On July 21, 2014, a series of six (6) checks totaling Forty Seven  
20 Thousand Eighty Six dollars (USD\$47,086) were cut from Hughes account to  
21 Bristol ("INSTALLMENT 3").

22           36. As of the date of the drafting of these Counter-Claims, it is unclear  
23 whether Hughes, Bristol, or both wrote the checks for INSTALLMENT 3.

24           37. However, the existing evidentiary record does appear to confirm that,  
25 as of July 21, 2014, Bristol had "borrowed" from Hughes the total sum of Ninety  
26 One Thousand Nine Hundred Eighty Six dollars (USD\$91,986.00).

27           38. Again, in August, 2014, Bristol failed to make any good faith  
28 payment as promised.

1           39.     However, in or about August of 2014, Bristol represented to Hughes  
2 that his company (the company for which he was the chief executive officer) was  
3 seeking office space in Las Vegas and that, if she reinstated her realtor license, he  
4 would use her as the agent on the transaction – an opportunity that would have  
5 meant a hefty commission for Hughes.

6           40.     Based on this representation from Bristol, Hughes took the time and  
7 the effort to reinstate her realtor's license in late August.

8           41.     However, shortly after Hughes reinstated her realtor's license,  
9 Bristol informed her that his company had decided to hold off on new office space  
10 until next year.

11           42.     On or about September 14, 2014, Bristol made a modest payment of  
12 Four Hundred dollars (USD\$400.00) toward the balance owed ("PAYMENT 1").

13           43.     However, in October, 2014, Bristol again failed to make any good  
14 faith payment as promised.

15           44.     Again, in November, 2014, Bristol failed to make any good faith  
16 payment as promised.

17           45.     In fact, on or about November 6, 2014, Bristol wrote another check  
18 out to himself on Hughes' bank account for Two Thousand Two Hundred dollars  
19 (USD\$2,200.00) ("INSTALLMENT 4").

20           46.     Again, in December, 2014, Bristol failed to make any good faith  
21 payment as promised.

22           47.     In January of 2015, Bristol sent a text to Hughes suggesting that he  
23 would make a credit card payment for her benefit as a payment toward the money  
24 he owed her; however, Bristol never made the credit card payment.

25           48.     In January, 2015, Bristol failed to make any good faith payment as  
26 promised.

27           49.     However, at the end of January, 2015, Hughes established an  
28 irrevocable spendthrift trust entitled the "Scorpio Trust" and named Bristol as the



1 Trustee of the trust.

2 50. Despite the fact that Bristol had failed to make all but one of the  
3 payments he had promised to make, Hughes still trusted that Bristol was her  
4 friend and confidant and consequently named him as the trustee of her Scorpio  
5 Trust.

6 51. At this same time, in late January of 2015, at Bristol's behest,  
7 Hughes began the process of trying to find Bristol's company office space in Las  
8 Vegas.

9 52. Under Bristol's orders, Hughes aggressively pursued a series of office  
10 spaces throughout the Las Vegas Valley, preparing letters of intent, negotiating  
11 with landlords, and doing everything she could to satisfy Bristol's demands.

12 53. This process of trying to find Bristol an office space would continue  
13 for four long, difficult months, and require hundreds of hours of Hughes' time, and  
14 ultimately end with Bristol's company choosing not to lease any space through  
15 Hughes.

16 54. On February 15, 2015, Bristol made a payment of Eight hundred  
17 dollars (USD\$800.00) to Hughes ("PAYMENT 2").

18 55. At first glance PAYMENT 2 would appear to be a good faith attempt  
19 to catch up on the payments Bristol had missed.

20 56. However, the very same day that Bristol made PAYMENT 2 to  
21 Hughes, Bristol charged Seven Hundred Sixty Eight dollars (USD\$768.00) on  
22 Hughes' credit card to pay for an inspection on a property that he was looking at  
23 in San Diego.

24 57. PAYMENT 2 was effectively a wash.

25 58. On February 27, 2015, Bristol signed a 2-page promissory note, in  
26 which he acknowledged that he owed Hughes Ninety One Thousand Nine  
27 Hundred Eighty Six dollars (USD\$91,986.00) (the "2015 Promissory Note").

28 59. It should be noted that the actual principal balance owed at this time

1 was, in fact, Ninety Three Thousand Seven Hundred Fifty Four dollars  
2 (USD\$93,754.00).

3 60. The 2015 Promissory Note included an attorney fee shifting  
4 provision.

5 61. The 2015 Promissory Note called for at least monthly payments of  
6 Four Hundred Seven dollars (USD\$407.00), due on the fifteenth day of every  
7 month.

8 62. The 2015 Promissory Note called for a penalty to be assessed on any  
9 payment more then five (5) days overdue, equal to twenty percent (20%) of the  
10 installment due, but in no event less than fifty dollars (USD\$50.00).

11 63. The 2015 Promissory Note stated that upon any event of default,  
12 Hughes could demand the repayment of the entire principal sum, causing such  
13 sum to be due within ninety (90) days of the demand.

14 64. The 2015 Promissory Note did not have an integration clause.

15 65. The 2015 Promissory Note was drafted without the benefit of

16 66. Then, on March 1, 2015, Bristol came back to Hughes asking for yet  
17 more money.

18 67. This time, Bristol claimed that he owed back taxes to the Internal  
19 Revenue Service (IRS) and needed Hughes to pay the IRS, on Bristol's behalf,  
20 Fourteen Thousand Five Hundred Sixty Three and 69/100 dollars  
21 (USD\$14,563.69).

22 68. Bristol promised that, if Hughes made this payment for him, he  
23 would make a large good faith payment toward paying off the amount he had  
24 already "borrowed" from Hughes.

25 69. On March 1, 2015, Hughes begrudgingly handed over to Bristol  
26 another Fourteen Thousand Five Hundred Sixty Three and 69/100 dollars  
27 (USD\$14,563.69) ("INSTALLMENT 5").

28 70. That same day, Bristol made a payment of three thousand dollars

1 (USD\$3,000.00) to Hughes (“PAYMENT 3”).

2 71. Despite PAYMENT 3, Bristol’s receipt of INSTALLMENT 5 actually  
3 caused his total indebtedness to Hughes to rise.

4 72. At this point, Bristol had “borrowed” from Hughes a total of One  
5 Hundred Nine Thousand Five Hundred Seventeen and 69/100 dollars  
6 (USD\$109,517.69).

7 73. Meanwhile, Bristol had only made a sporadic set of payment to  
8 Hughes totaling Four Thousand Two Hundred dollars (USD\$4,200.00).

9 74. Nevertheless, on April 1, 2015, Bristol made another payment to  
10 Hughes of Three Thousand dollars (USD\$3,000.00) (“PAYMENT 4”).

11 75. However, by the end of April, 2015, Bristol was once again asking  
12 Hughes for more money.

13 76. In late April, 2015, Bristol asked Hughes to pay One Thousand  
14 dollars (USD\$1,000.00) toward one of Bristol’s credit cards.

15 77. Bristol insisted that the payment would help him build up his credit  
16 rating.

17 78. On April 29, 2015, Hughes gave Bristol yet another installment of  
18 One Thousand dollars (USD\$1,000.00) (“INSTALLMENT 6”).

19 79. On May 20, 2015, Bristol made another payment to Hughes of One  
20 Thousand Two Hundred dollars (USD\$1,200.00) (“PAYMENT 5”).

21 80. The following week, on May 26, 2015, Bristol told Hughes that he  
22 was going to make another payment of One Thousand Dollars (USD\$1,000.00)  
23 that day.

24 81. However, Bristol did not make another payment for two weeks.

25 82. On June 12, 2015, Bristol finally made a payment to Hughes of One  
26 Thousand Dollars (USD\$1,000.00) (“PAYMENT 6”).

27 83. On July 5, 2015, without any prior approval from Hughes, Bristol  
28 withdrew another Fifty Three Thousand Two Hundred Sixteen dollars

1 (USD\$53,216.00) from the Scorpio Trust ("INSTALLMENT 7").

2 84. Hughes never authorized Bristol withdraw INSTALLMENT 7.

3 85. In fact, at that time, Hughes was embroiled in two (2) separate  
4 lawsuits involving her former employer and desperately needed funds to fight  
5 those lawsuits.

6 86. Bristol swore that he needed INSTALLMENT 7 to cover the down  
7 payment on his new home in Las Vegas.

8 87. At this point, Bristol had apparently abandoned his plans to  
9 purchase the San Diego Property.

10 88. Not only had Hughes not authorized the use of her money for a down  
11 payment on a Las Vegas home, but she would later come to find out that none of  
12 the INSTALLMENTS were used to cover the down payment on any home of  
13 Bristol.

14 89. Instead, Bristol used seller financing to cover the down payment on  
15 his Las Vegas home, granting the seller a second deed of trust on the subject  
16 property.

17 90. This meant that the money borrowed from Hughes was never used  
18 for its stated purpose.

19 91. The money was, instead, squandered.

20 92. This also meant that the real estate purchased by Bristol was so  
21 heavily leveraged that he could not afford to grant Hughes the security interest  
22 that he had originally promised her.

23 93. Bristol had squandered a total of One Hundred Sixty Three  
24 Thousand Seven Hundred Thirty Three and 69/100 dollars (USD\$163,733.69).

25 94. While Hughes was deeply angry and hurt by the fact that Bristol had  
26 absconded with INSTALLMENT 7 without her permission, it would be several  
27 months before Hughes discovered that Bristol did not even use the  
28 INSTALLMENTS for the down payment on his home.

1           95. Bristol failed to make any payment to Hughes in July, 2015.

2           96. On August 1, 2014, Bristol made a payment to Hughes of Two  
3 Thousand dollars (USD\$2,000.00) ("PAYMENT 7").

4           97. On August 4, 2015, Hughes contacted Bristol and asked him to make  
5 a payment on one of her credit cards.

6           98. Hughes still believed that Bristol would honor his original agreement  
7 to make payments on her behalf when she had urgent needs.

8           99. Bristol texted back to Hughes, claiming that he would make the  
9 requested payment, but he never made the payment.

10          100. In fact, Bristol made no payment at all to Hughes in September,  
11 2015.

12          101. On October 15, 2015, without any prior approval from Hughes,  
13 Bristol charged One Thousand dollars (USD\$1,000) to Hughes' credit card to pay  
14 for a plane ticket for Bristol's new boyfriend.

15          102. Hughes now sought to have Bristol removed from his position as  
16 Trustee of the Scorpio Trust.

17          103. Hughes repeatedly asked for passwords and account access from  
18 Bristol.

19          104. However, Bristol stalled and offered nothing but excuses.

20          105. Hughes told Bristol that the pair needed to formalize the loan  
21 agreement, using attorney-drafted documents, and that Hughes needed updated  
22 account records, so that she could determine exactly how much money he had  
23 "borrowed."

24          106. Bristol continued to stall.

25          107. Bristol failed to make any payment to Hughes in October 2015.

26          108. On November 15, 2015, Hughes sent to Bristol a new promissory note  
27 and deed of trust, which her attorney had drawn up.

28          109. Bristol balked at the new documents, claiming that they were

1 complicated and confusing.

2 110. After Hughes repeated demands, on November 23, 2015, Bristol  
3 finally reimbursed Hughes for the One Thousand dollars (USD\$1,000.00) that he  
4 had wrongly charged on her credit card. (“PAYMENT 8”).

5 111. However, Bristol made no other payment to Hughes for the month of  
6 November, 2015.

7 112. In fact, Bristol never made any further payment to Hughes after  
8 PAYMENT 8.

9 113. On November 27, 2015, Hughes was finally able to remove Bristol as  
10 Trustee of the Scorpio Trust and gain access to the accounting records.

11 114. It was at this point that Hughes began to realize the full extent of the  
12 damage caused by Bristol’s self-dealing.

13 115. For the next three months, Hughes desperately tried to negotiate  
14 some sort of settlement with Bristol.

15 116. At every step of the way, Bristol seemed blissfully unaware of the  
16 damage that he had wrought.

17 117. Indeed, Bristol acted entitled and even angry that Hughes was no  
18 longer giving him money.

19 118. On February 2, 2016, Bristol dispatched a signed promissory note  
20 and deed of trust that he delivered to Hughes.

21 119. However, the documents had been completely revised to make the  
22 deal overwhelmingly favorable to Bristol.

23 120. Under Bristol’s proposed payment plan, Hughes would likely die  
24 before actually receiving the full repayment of the note.

25 121. Moreover, due to the multiple deeds of trust already encumbering  
26 Bristol’s home, Hughes’ was grossly under-secured.

27 122. Hughes made clear to Bristol that the terms set forth in his newly  
28 signed promissory note and deed of trust were unacceptable.

1           123. In early March, Bristol's tone shifted to one of outrage and anger.

2           124. On or about March 3, 2016, Bristol sought to blackmail Hughes into  
3 submission.

4           125. At that time, Bristol threatened that if Hughes refused his terms,  
5 Bristol would take everything he knew to Hughes' ex-boyfriend, Clint Ober.

6           126. Bristol was well aware that Hughes was still embroiled in two  
7 lawsuits against Clint Ober and her former employer.

8           127. Bristol believed that the confidential knowledge he had gleaned  
9 while serving as trustee of the Scorpio Trust would be valuable to Clint Ober in  
10 those cases.

11           128. Consequently, Bristol sought to blackmail Hughes into accepting  
12 Bristol's one-sided terms.

13           129. Hughes refused to accept Bristol's terms.

14           130. Bristol then made good on his extortive threats and reached out to  
15 Ober.

16           131. Bristol then filed the present lawsuit to intimidate and bully Hughes  
17 into accepting Bristol's unilateral terms of the subject transaction.

18           132. In a subsequent deposition, taken under oath, Bristol, in an effort to  
19 hurt Hughes, made numerous intentional misrepresentations about her character,  
20 her past and her actions – even accusing her of criminal acts that she never  
21 committed.

## 22           **C. COUNTER-CLAIMED CAUSES OF ACTION**

### 23                           **FIRST COUNTER-CLAIM**

#### 24                                   **(Fraudulent Inducement/Misrepresentation)**

25           133. Counter-Claimant incorporates by reference all of the preceding  
26 paragraphs as though fully set forth herein.

27           134. Bristol made numerous false representations to Hughes in an effort  
28 to induce Hughes into: (i) loaning money to Bristol; (ii) giving Bristol access to

1 Hughes' bank account; and (iii) giving Bristol access to Hughes' credit cards.

2 135. Bristol knew the representations to be false, or, at the very least, had  
3 an insufficient basis of information for making such representations.

4 136. Such false representations included, but were not limited to, the  
5 following:

6 a. Bristol falsely represented that the "borrowed" funds would be used  
7 for his down payment on the San Diego Property.

8 b. Bristol falsely represented that, if the funds were not used for a down  
9 payment on his San Diego Property, that the funds would be  
10 returned to Hughes.

11 c. Bristol falsely represented that he earned over three hundred  
12 thousand dollars (USD\$300,000) annually.

13 d. Bristol falsely represented that he needed to be made a signatory on  
14 Hughes' account as a means of bolstering Bristol's credit rating.

15 e. Bristol falsely represented that he would keep the "borrowed" funds  
16 in his account and use them only for a down payment on a house.

17 f. Bristol falsely represented that Hughes would have a perfected  
18 security interest in real estate with ample equity to cover the  
19 entirety of any funds that she might have given to Bristol.

20 137. Hughes justifiably relied on these false representations.

21 138. As a direct and proximate result of Hughes' reliance upon Bristol's  
22 false representations, Hughes has suffered and continues to suffer damages.

23 139. Bristol initiated the present action, causing Hughes to incur legal  
24 fees and costs, including attorney's fees.

25 SECOND COUNTER-CLAIM

26 (Conversion)

27 140. Counter-Claimant incorporates by reference all of the preceding  
28 paragraphs as though fully set forth herein.



1           141. Bristol, in absconding with INSTALLMENT 7, committed a distinct  
2 act of dominion wrongfully exerted over Hughes' personal property.

3           142. The act of dominion was in denial of, or inconsistent with, Hughes'  
4 title or rights therein.

5           143. The act was in derogation, exclusion or defiance of Hughes' title or  
6 rights in the personal property.

7           144. As a direct and proximate result of Bristol's conduct, Hughes has  
8 suffered and continues to suffer damages.

9           145. Bristol initiated the present action, causing Hughes to incur legal  
10 fees and costs, including attorney's fees.

11   THIRD COUNTER-CLAIM

12   (Breach of Fiduciary Duty)

13           146. Counter-Claimant incorporates by reference all of the preceding  
14 paragraphs as though fully set forth herein.

15           147. As the Trustee of the Scorpio Trust, Bristol owed certain fiduciary  
16 duties to Hughes;

17           148. Bristol breached one or more of those duties;

18           149. As a direct and proximate result of Bristol's conduct, Hughes has  
19 suffered and continues to suffer damages.

20           150. Bristol initiated the present action, causing Hughes to incur legal  
21 fees and costs, including attorney's fees.

22   FOURTH COUNTER-CLAIM

23   (Constructive Fraud)

24           151. Counter-Claimant incorporates by reference all of the preceding  
25 paragraphs as though fully set forth herein.

26           152. As the Trustee of the Scorpio Trust, Bristol owed legal and equitable  
27 duties to Hughes arising from a fiduciary relationship;

28           153. Bristol breached that duty by misrepresenting and concealing

1 material facts.

2 154. Such misrepresentations and intentional concealments included, but  
3 were not limited to:

4 a. Bristol intentionally concealed and misrepresented the fact that he  
5 did not actually use any of the monies he “borrowed” from Hughes for  
6 the down payment on his home;

7 b. Bristol intentionally concealed and misrepresented the fact that he  
8 did not maintain in his account any of the monies he “borrowed” from  
9 Hughes;

10 c. Bristol intentionally concealed the fact that he had taken  
11 INSTALLMENT 7.

12 155. As a direct and proximate result of Bristol’s conduct, Hughes has  
13 suffered and continues to suffer damages.

14 156. Bristol initiated the present action, causing Hughes to incur legal  
15 fees and costs, including attorney’s fees.

16 FIFTH COUNTER-CLAIM

17 (Unjust Enrichment)

18 157. Counter-Claimant incorporates by reference all of the preceding  
19 paragraphs as though fully set forth herein.

20 158. Bristol unjustly retained the money of Hughes against fundamental  
21 principals of justice or equity and good conscience.

22 159. As a direct and proximate result of Bristol’s conduct, Hughes has  
23 suffered and continues to suffer damages.

24 160. Bristol initiated the present action, causing Hughes to incur legal  
25 fees and costs, including attorney’s fees.

26 SIXTH COUNTER-CLAIM

27 (Extortion)

28 161. Counter-Claimant incorporates by reference all of the preceding

1 paragraphs as though fully set forth herein.

2 162. By threatening to divulge confidential information if Hughes' did not  
3 agree to Bristol's one-sided terms, Bristol sought to unlawfully retain Hughes'  
4 property, with her consent induced by the wrongful use of threatened fear.

5 163. Bristol used a threat of fear in order to retain Hughes' money.

6 164. As a direct and proximate result of Bristol's conduct, Hughes has  
7 suffered and continues to suffer damages.

8 165. Bristol initiated the present action, causing Hughes to incur legal  
9 fees and costs, including attorney's fees.

#### 10 SEVENTH COUNTER-CLAIM

##### 11 (Breach of Contract)

12 166. Counter-Claimant incorporates by reference all of the preceding  
13 paragraphs as though fully set forth herein.

14 167. If it is found that, despite Bristol's misrepresentations, there existed  
15 a valid and existing contract between Bristol and Hughes, then Bristol breached  
16 that contract by failing to timely remit the payments owed thereunder to Hughes.

17 168. As a direct and proximate result of Bristol's conduct, Hughes has  
18 suffered and continues to suffer damages.

19 169. Bristol initiated the present action, causing Hughes to incur legal  
20 fees and costs, including attorney's fees.

#### 21 EIGHTH COUNTER-CLAIM

##### 22 (Contractual Breach of the Implied Duty of Good Faith and Fair Dealing)

23 170. Counter-Claimant incorporates by reference all of the preceding  
24 paragraphs as though fully set forth herein.

25 171. If it is found that, despite Bristol's misrepresentations, there existed  
26 a valid and existing contract between Bristol and Hughes, then Bristol owed a  
27 duty of good faith and fair dealing to Hughes.

28 172. Bristol breached that duty by acting in a manner that was unfaithful

1 to the purpose of the contract.

2 173. Hughes' justified expectations were thereby denied.

3 174. As a direct and proximate result of Bristol's conduct, Hughes has  
4 suffered and continues to suffer damages.

5 175. Bristol initiated the present action, causing Hughes to incur legal  
6 fees and costs, including attorney's fees.

7 NINTH COUNTER-CLAIM

8 (Tortious Breach of the Implied Duty of Good Faith and Fair Dealing)

9 176. Counter-Claimant incorporates by reference all of the preceding  
10 paragraphs as though fully set forth herein.

11 177. If it is found that, despite Bristol's misrepresentations, there existed  
12 a valid and existing contract between Bristol and Hughes, then Bristol owed a  
13 duty of good faith and fair dealing to Hughes.

14 178. A special element of reliance or fiduciary duty existed between  
15 Bristol and Hughes where Bristol was in a superior or entrusted position.

16 179. Bristol breached that duty by engaging in misconduct.

17 180. As a direct and proximate result of Bristol's conduct, Hughes has  
18 suffered and continues to suffer damages.

19 181. Bristol initiated the present action, causing Hughes to incur legal  
20 fees and costs, including attorney's fees.

21 TENTH COUNTER-CLAIM

22 (Slander/Defamation)

23 182. Counter-Claimant incorporates by reference all of the preceding  
24 paragraphs as though fully set forth herein.

25 183. In his communications to Clint Ober and Client Ober's counsel,  
26 including, but not limited to, the statements made in his own sworn deposition,  
27 Bristol knowingly made a series of false representations about Hughes.

28 184. The subject defamatory statements included assertions that Hughes

1 had engaged in criminal conduct, that she was incompetent, that she was  
2 “dangerous,” and incapable of carrying out her own business affairs.

3 185. Bristol knew that the statements were false or was, at the very least,  
4 negligent in making such statements.

5 186. As a direct and proximate result of Bristol’s conduct, Hughes has  
6 suffered and continues to suffer damages.

7 187. Bristol initiated the present action, causing Hughes to incur legal  
8 fees and costs, including attorney’s fees.

9 ELEVENTH COUNTER-CLAIM

10 (Detrimental Reliance)

11 188. Counter-Claimant incorporates by reference all of the preceding  
12 paragraphs as though fully set forth herein.

13 189. Bristol made a clear and unambiguous promise to financially  
14 compensate Hughes for her services as a realtor in locating and procuring office  
15 space for Bristol’s company.

16 190. Hughes reasonably and foreseeably relied upon Bristol’s promise,  
17 exerting hundreds of hours of labor-intensive work.

18 191. As a direct and proximate result of that reliance, Hughes has  
19 suffered damages.

20 192. Bristol initiated the present action, causing Hughes to incur legal  
21 fees and costs, including attorney’s fees.

22 PRAYER FOR RELIEF

23 WHEREFORE the Defendant/Counter-Claimant ELIZABETH JOAN  
24 HUGHES respectfully requests that the Court enter judgment against  
25 Plaintiff/Counter-Defendant GABRIEL M. BRISTOL and provide relief as follows:

- 26 1. That the Plaintiff/Counter-Defendant takes nothing by way of his  
27 Complaint;  
28 2. For past and future general damages awards to Defendant/Counter-

1 Claimant on her Counter-claims;

2 3. For past and future special, actual, and compensatory damages awards to  
3 Defendant/Counter-Claimant on her Counter-claims;

4 4. For punitive damages awards to Defendant/Counter-Claimant on her  
5 Counter-claims;

6 5. For pre-judgment and post-judgment interest;

7 6. For reasonable attorneys' fees and costs of suit; and

8 7. For such other relief as this Honorable Court may deem just and proper.

9 Dated: Las Vegas, Nevada

*Respectfully submitted,*

10 February 8, 2017

**HAMRICK & EVANS, LLP**

11 /s/ Charles C. Rainey

12 CHARLES C. RAINEY, ESQ./MBA/LLM

13 Nevada Bar No. 10723

14 crainey@hamricklaw.com

15 7670 W. Lake Mead Blvd., Ste. 140

16 Las Vegas, Nevada 89128

17 +1.702.425.5100 (ph)

18 +1.818.763.2308 (fax)

19 *Attorney for Defendant*